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PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Rulemaking Hearing

June 19, 2018

Jefferson City, Missouri

Volume 1

In The Matter Of The Rescission)
Of Several Manufactured Housing) File No. MX-2018-0187
Rules)

MORRIS WOODRUFF, Presiding,
CHIEF REGULATORY LAW JUDGE.

DANIEL Y. HALL, Chairman,
COMMISSIONER

REPORTED BY:

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TIGER COURT REPORTING, LLC

A P P E A R A N C E S

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P R O C E E D I N G S

JUDGE WOODRUFF: All right. Let's go ahead and get started. We're here for a Rulemaking Hearing in Commission File No. MX-2018-0187. It concerns Rescission of Several Manufactured Housing Rules. Like I said, this is a Rulemaking Hearing, so it's a chance for the public to offer comments, and for the Commissioner to hear what the people have to say about this proposed rule, and actually, in this case, the rescissions.

Looking around the room I see Staff is here. So, Mr. Johnson, if you want to introduce yourself and say what you want to say.

MR. JOHNSON: Certainly, thank you, Judge. My name's Mark Johnson. I'm here on behalf of Staff and the manager of the Manufactured Housing and Modular Units Program. I have Staff Director Natelle Dietrich with me today.

But, hopefully, very briefly what I would like to say is: We're here to discuss the rescission of three individual rules, and also an entire chapter of the Manufactured Housing Rules. And those rules are 4 CSR 240-120.070 and 120.080, which relate to certain reporting requirements on both dealers and manufacturers and the PSC itself; 4 CSR 240-124.045,

1 which relate to anchoring standards, and Chapter 121 of
2 the rules, which relate to pre-owned homes.

3 Staff made prefiled comments in the case, in
4 which we have actually recommended certain rules not be
5 rescinded. We are still recommending the rescission
6 of 120.080, which relates to the reporting requirements
7 on the PSC itself. Staff's determined that to be
8 unnecessary, and Chapter 121.

9 However, after further review, we do not
10 believe Section 120.070 should be rescinded on the
11 basis that when we file our annual state plan, there is
12 a requirement that we need to indicate. State law
13 provides that manufacturers and dealers must make
14 reports similar to the requirements of the federal
15 regulations. So because of that, we recommend that not
16 be rescinded.

17 In terms of Section 124.045, that rule was
18 recommended to be rescinded because it was duplicative.
19 However, although, there are duplicative sections in
20 that rule, that in Staff's opinion should be amended,
21 we believe that it was mistakenly ID for rescission.
22 There are standards in that rule that we believe should
23 remain. And for that -- because of that we recommend a
24 subsequent rulemaking to amend that rule to remove
25 those duplicative sections.

1 And I'd be happy to take any questions.

2 Thank you.

3 CHAIRMAN HALL: Good morning. Concerning
4 124.045, is it your position that you couldn't in this
5 rulemaking rescind the duplicative provisions and keep
6 the rest?

7 MR. JOHNSON: Well, I think under the
8 rulemaking standards, my impression is -- or my
9 understanding is that there would need to be an
10 amendment made to remove those provisions instead of a
11 rescission.

12 CHAIRMAN HALL: Well, I don't know if I agree
13 because you're -- the proposed rule has -- has -- is --
14 is rescinding all of it, and if we only rescind a
15 portion of it, aren't we within the scope of the
16 proposed rule?

17 MR. JOHNSON: That could be the case. I
18 would have to go back --

19 CHAIRMAN HALL: Well, then, let's just assume
20 for a moment that we could do that. Could you put on
21 the record the -- the portions of 124.045 that are
22 duplicative and those portions that you believe are
23 necessary to retain? And if you need a moment to do
24 that, that fine. I understand.

25 MR. JOHNSON: Yeah, just one moment. Thank

1 you.

2 It's our belief that Section 1 of 124.045
3 should be deleted in its entirety -- entirety. That is
4 the definition section of the rule. All other sections
5 at this time Staff would recommend to keep and have the
6 numbering adjusted to reflect the removal of Section 1.

7 If Staff had additional time to compare the
8 rest of the rules in that section, we may have
9 additional recommendations, but not at this time.

10 CHAIRMAN HALL: Additional recommendations as
11 to other sections that should be rescinded?

12 MR. JOHNSON: Correct.

13 CHAIRMAN HALL: Would it be possible to
14 complete the review you just described today and come
15 back after the Rulemaking on the CCN Provisions and
16 give us a final update as to Staff's positions on what
17 portions of 124.045 should be rescinded, and which
18 portions of it we should retain? Would that be enough
19 time to do a complete review?

20 MR. JOHNSON: I believe so, yes.

21 CHAIRMAN HALL: Okay.

22 JUDGE WOODRUFF: If I could make a
23 suggestion, could we possibly do it before the start of
24 the other hearing at ten o'clock? I don't want to rush
25 you, but I just don't know how long the other one's

1 going to last.

2 MR. JOHNSON: We -- we can certainly do our
3 best. We are working -- Justin Smith, the manager of
4 the program, is currently in St. Louis, so there may be
5 some email correspondence necessary.

6 JUDGE WOODRUFF: Okay. All right. Did you
7 have any other questions?

8 CHAIRMAN HALL: No. I just -- I'd -- I'd --
9 I would like to if -- if possible get a full and
10 complete answer to that question and if -- and if it
11 can't be done by ten o'clock, I don't want you to -- I
12 want an update on where you are in the process. So
13 I'm -- I'm wondering if -- if you could I guess let us
14 know at that point whether or not you have a full
15 answer to that question, and if not, then we'll --
16 we'll finish this discussion after the CCN Rulemaking?

17 Does that work, Judge?

18 JUDGE WOODRUFF: That will work. I do have
19 one other question. What's the reason for rescinding
20 the entire Chapter 121?

21 MR. JOHNSON: Well, it has to do with the
22 nature of inspecting pre-owned homes in general,
23 combined with the fact that the program has not
24 inspected a pre-owned home in at least the last two
25 years. Currently, the program has not been inspecting

1 pre-owned homes.

2 State regulations give us the authority to
3 inspect within two years of delivery, and the pre-owned
4 rules really only talk about inspecting the records in
5 inventory of pre-owned dealers. We do have the ability
6 to inspect homes sold by individuals that are not
7 dealers on a periodic basis. However, as I said, we
8 currently do not have a policy as to how to go about
9 that. Part of the reason for that is it is very
10 difficult to determine whether or not any potential
11 issues with home were created from improper
12 installation or inadequate maintenance.

13 Coupled that with -- excuse me -- oh, yes.
14 Coupled that with the fact that even without the
15 inspections, if -- if the Staff is notified or if the
16 program is notified of any potential imminent safety
17 hazards or manufacturing defects, the program is still
18 required to notify the manufacturer of the home, the
19 State Administrative Agency that would have
20 jurisdiction over it or HUD. So we feel that --

21 JUDGE WOODRUFF: And that's a requirement of
22 the federal --

23 MR. JOHNSON: Correct.

24 JUDGE WOODRUFF: -- regulations? I'm sorry,
25 I interrupted you.

1 MR. JOHNSON: Oh, no. And just the
2 combination of all those factors we think that the
3 imminent safety issues are still dealt with. However,
4 these rules have not been utilized in a very long time,
5 and as of now, we've determined them to be unnecessary.

6 JUDGE WOODRUFF: Anything else, Mr. Chairman?

7 CHAIRMAN HALL: Nothing else. Thank you.

8 JUDGE WOODRUFF: What we'll do then is we'll
9 take an intermission on this case until -- we'll
10 say 9:55. So let's come on back here at -- we'll come
11 on the record briefly at that point, and we'll discuss
12 it.

13 MR. JOHNSON: Sounds good. Thank you, Judge.

14 JUDGE WOODRUFF: Thank you.

15 (A break was held.)

16 JUDGE WOODRUFF: We'll go on the record for
17 the MX hearing. We're back for MX-2018-0187. We had a
18 brief recess for Staff to answer a question from the
19 Chairman. If you want to go on the record with that
20 now?

21 MR. JOHNSON: Certainly. Thank you, Judge.
22 We were able to meet and discuss with Justin Smith, and
23 at this time our opinion is just Subsection 1 can be
24 rescinded.

25 These rules essentially track federal

1 requirements for anchoring. A home must be anchored
2 either in accordance with the manufacturer's standards,
3 which have been approved and are compliant with the
4 federal standards or the federal standards themselves.
5 Unfortunately, our rule does not simply adopt or
6 incorporate the federal standards, but lists our
7 specific sections that should be complied with. And as
8 such we think that they need to remain in the rule as
9 published.

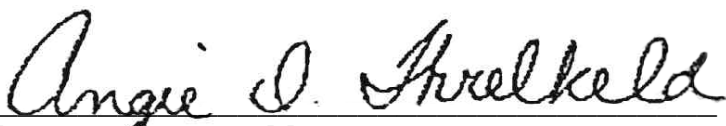
10 However, as -- as was stated earlier this
11 morning there are several sections that could be
12 removed, such as many of the tables that are attached
13 to the rule. Unfortunately, they are cited to within
14 the body of the rule and would require a further
15 amendment to change those sections.

16 JUDGE WOODRUFF: Okay. Thank you. With that
17 then the hearing in MX-2018-0187 is adjourned.

18 (Off the record.)
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CERTIFICATE

I, Chevon D. McFadden, a Certified Verbatim Reporter, Certified Court Reporter, CCR No. 1399, the officer before whom the foregoing hearing was taken, do hereby certify that the foregoing hearing was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.


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